

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

December 15, 1998

DIVISION ONE

Court convened at 9:00 A.M.

Present: Spencer, P.J., Ortega, J., Vogel(Miriam A.), J., Masterson, J., Dunn, J. (Assigned), and S. Beaux, Deputy Clerk.

Each of the following:

B112987 The People v. Guevara
B115465 People v. Adams
B115757 People v. Torrence
B116854 People v. Jones
B116880 People v. Anderson
B117745 People v. Aguilar
B118148 People v. Curry et al.
B118828 People v. Deptowicz
B118870 People v. Simmons
B119299 People v. Vallejo
B119437 People v. Santiago
B119685 People v. Monique K.
B120111 In re Joseph H., Jr.
B120148 People v. Yonko
B120378 People v. Mosley
B120624 People v. Thomas
B120733 People v. Galante
B120909 People v. York
B122216 People v. Benton
B122285 In re Cassey S.
B123081 People v. Lynch
B125652 Martha S. v. SCLA

Argument waived, cause submitted.

DIVISION ONE (Continued)

B112987 Thomas
 v.
 City of Inglewood

Merits:
Argued by Ellen Hammill Ellison for appellant and by Edwin A. Lewis for respondent. Cause submitted.

B118539 The People
 v.
 Meadows, Jr.

Merits:
Argued by Barbara Michel for appellant and by Stephanie Miyoshi for respondent. Cause submitted.

B119318 The People
 v.
 Gonzalez

Merits:
Argued by Nancy J. King for appellant and by Jason C. Tran for respondent. Cause submitted.

B124910 Kelly F.
 v.
 SCLA
 (Dept of Children & Family Services, r.p.i.)

Merits:
Argued by Lawrence Fluharty for petitioner and by Judith A. German for real party in interest. Cause submitted.

DIVISION ONE (Continued)

B119207 The People
 v.
 Simmons

Merits:
Argued by Robert E. Boyce for appellant and by Sunnie S. Lee for
respondent. Cause submitted.

B120008 The People
 v.
 Robles

Merits:
Argued by Russell S. Babcock for appellant and by Suzann E. Papagoda for
respondent. Cause submitted.

B114364 Missioreck
 v.
 West Valley Jewish Community Center

Merits:
Argued by Moses Lebovits for appellant and by Mark H. Herkovitz for
respondent. Cause submitted.

Vogel, J. leaves the bench.

B120037 Mohr et al.
 v.
 Totin

Merits:
Argued by Robert Alden Welbourn for appellant and by David L. Ingram
for respondent. Cause submitted.

Vogel, J. resumes the bench.

DIVISION ONE (Continued)

B125097 Edmond S. M.

v.

SCLA

(Dept of Children & Family Services, r.p.i.)

Merits:

Argued by Lucia J. Murillo for petitioner and by Jill Regal for real party in interest. Cause submitted.

B114447 Low

v.

Sports Connection

Merits:

Argued by Norman Pine and Steven Martin for appellant and by Mark H. Herskovitz for respondent. Cause submitted.

B116287 The People

v.

Lepkowski

Merits:

Argued by Barbara Michel for appellant and by Kenneth C. Byrne for respondent Cause submitted.

B118276 Van Wagner Communications, et al.

v.

City of Los Angeles, et al.

Merits:

Argued by Efrat M. Cogan for appellant; Michael L. Klekner for respondent City of Los Angeles and by Gregory G. Gorman for respondent ACP. Cause submitted.

DIVISION ONE (Continued)

B117817 Alvarez
 v.
 Gramercy Escrow Corp, et al.

Merits:
Argued by Maria F. Alvarez appellant in propria persona and there being no appearance for respondent. Cause submitted.

B119823 Tanabe, et al.
 v.
 Sumitomo Real Estate Sales

Merits:
Argued by F. Frederic Fouad for appellant and by Julie Tachikawa for respondent. Cause submitted.

Masterson, J. leaves the bench.

B124087 American Motorists Ins.
 v.
 SCLA
 (Montrose Chemical Corp, r.p.i.)

Merits:
Argued by Paul H. Saint-Antoine for petitioner and by Dorn G. Bishop for real party in interest. Cause submitted.

Court recessed.

The Court reconvened at 1:30 P.M.

Present: Spencer, P.J., Vogel(Miriam A.), J., Masterson, J., and S. Beaux, Deputy Clerk.

B113866 The People
 v.
 Elmer Gerard Pratt

Merits:
Argued by Harry B. Sondheim and Brentford J. Ferreira for appellant and by Stuart Hanlon and Mark Rosenbaum for respondent. Court requests stipulation regarding time frame of trial & jury deliberation. Cause submitted.

DIVISION ONE (Continued)

Court adjourned.

B115253 People (Not for Publication)
v.
Mittwer

We modify the judgment and reduce Mittwer's restitution fine from \$5000 to \$200. We remand the case for the trial court to prepare an amended abstract of judgment so noting and to forward the amended abstract to the Department of Corrections. In all other respects we affirm the judgment.

Ortega, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

B116460 Louette, Jr. (Not for Publication)
v.
Louette

The order appealed from is affirmed.

Ortega, Acting P.J.

We concur: Vogel (Miriam A.), J.
Masterson, J.

B118540	Edward Turrentine Interior Design, Inc., et al.	(Not for Publication)
	v. Angeles Arc Roofing Company, Inc.	

The order of October 22, 1997, is reversed and the order of January 17, 1997, is reinstated. Defendant is awarded costs on appeal.

Ortega, J.

We concur: Spencer, P.J.
Dunn, J. (Assigned)

December 15, 1998-Continued

DIVISION ONE (Continued)

B119888 People (Not for Publication)
v.
Rich

The judgment is affirmed.

Ortega, Acting P.J.

We concur: Vogel (Miriam A.), J.
Masterson, J.

B122127 People (Not for Publication)
v.
Gonzales

We affirm the judgment.

Ortega, J.

We concur: Spencer, P.J.
Masterson, J.

B108568 People (Not for Publication)
v.
Padron
American Surety Company

The judgment (order) is affirmed.

Ortega, J.

We concur: Spencer, P.J.
Masterson, J.

December 15, 1998-Continued

DIVISION ONE (Continued)

[illegible]

We modify the judgment to reflect a 5-year upper term for appellant's personal gun use in count 1 (former § 12022.5, subd. (a)). The matter is remanded for the trial court to assess the fine required by section 1202.45 and to amend the abstract of judgment to reflect (1) that fine, (2) the section 1202.4, subdivision (b) fine in the amount of \$200 assessed by the trial court, and (3) a 5-year, rather than 10-year, prison term for the section 12022.5, subdivision (a) finding. In all other respects, the judgment is affirmed. The trial court shall issue a corrected abstract of judgment and forward the corrected abstract to the Department of Corrections.

Ortega, Acting P.J.

We concur: Vogel (Miriam A.), J.
Dunn, J. (Assigned)

B118870 People (Not for Publication)
v.
Simmons

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Dunn, J. (Assigned)

[illegible]

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

December 15, 1998-Continued

DIVISION ONE (Continued)

B119437 People v. Santiago (Not for Publication)

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
Dunn, J. (Assigned)

B115757 People (Not for Publication)
v.
Torrance

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
Dunn, J. (Assigned)

DIVISION TWO

B117726 Edwards, et al. (Not for Publication)
v.
Board of Vocational Nurse & Psychiatric Technician Examiners

The judgment is reversed. Petitioners shall recover costs on appeal.

Fukuto, Acting P.J.

We concur: Nott, J.
Zebrowski, J.

December 15, 1998-Continued

DIVISION TWO (Continued)

B123948 Roll International Corporation, et al. (Not for Publication)
v.
Unilever United States, Inc., et al.

The order under review is affirmed.

Fukuto, J.

We concur: Boren, P.J.
 Zebrowski, J.

B120382 Comedy III Productions, Inc. (Certified for Publication)
v.
Gary Saderup, Inc., et al.

The judgment is modified by deleting paragraph 2, and as modified is affirmed. Plaintiff shall recover costs.

Fukuto, J.

We concur: Boren, P.J.
 Zebrowski, J.

DIVISION THREE

B111449 People (Not for Publication)
v.
John Gregory Arenas

The judgment is affirmed.

Kitching, J.

We concur: Klein, P.J.
 Aldrich, J.

DIVISION THREE (Continued)

B108129 Cruz, etc. (Not for Publication)
v.
Briseno, et al.

The judgment is reversed insofar as it holds that County and Briseno have no duty. The judgment is affirmed insofar as it holds County has immunity pursuant to section 17004.7. The judgment is reversed insofar as it holds that Briseno has immunity pursuant to section 17004. Each side to pay its own costs on appeal.

Kitching, J.

We concur: Klein, P.J.
Aldrich, J.

B120649 Zhang (Not for Publication)
v.
Los Angeles County, et al.

The judgment of dismissal is affirmed. Each party to bear their own costs on appeal.

Kitching, J.

We concur: Croskey, Acting P.J.
 Aldrich, J.

B117880 **Olivar** (Not for Publication)
v.
Welther

Order of default is reversed and judgment vacated. All parties to bear their own costs on appeal.

Kitching, J.

We concur: Croskey, Acting P.J.
 Aldrich, J.

December 15, 1998-Continued

DIVISION FOUR

B116591 People (Not for Publication)
v.
Davis

The judgment is affirmed.

Epstein, J.

We concur: Vogel (C.S.), P.J.
Curry, J.

[illegible]

The judgment is affirmed.

Epstein, J.

We concur: Vogel (C.S.), P.J.
Curry, J.

B118602 California Maryland Funding (Not for Publication)
v.
Lowe

The judgment, order of dismissal, is affirmed. Respondent to have his costs on appeal.

Hastings, J.

We concur: Epstein, Acting P.J.
Curry, J.

December 15, 1998-Continued

DIVISION FOUR (Continued)

B118264 Sahakian (Not for Publication)

V.

The May Department Stores

The judgment is affirmed.

Hastings, J.

We concur: Vogel (C.S.), P.J.
Curry, J.

B118319 Hurst, Chinello & Mandell (Not for Publication)

V.

Barnes & Clarette

The appeal is dismissed as moot.

Hastings, J.

We concur: Vogel (C.S.), P.J.
Curry, J.

B122832 Field (Not for Publication)

V.

Santa Monica Rent Control Bd.

The judgment is affirmed.

Epstein, J.

We concur: Vogel (C.S.), P.J.
Curry, J.

December 15, 1998-Continued

DIVISION FOUR (Continued)

B121784 Ceniceros (Not for Publication)
v.
Strazzeri

The judgment is affirmed.

Epstein, Acting P.J.

We concur: Hastings, J.
Curry, J.

DIVISION FIVE

B114099 People (Not for Publication)
v.
James Netherly

The judgment is affirmed.

Godoy Perez, J.

We concur: Turner, P.J.
 Grignon, J.

DIVISION SIX

[illegible]

The judgment is affirmed.

Stone, P.J.

We concur: Gilbert, J.
 Yegan, J.

December 15, 1998-Continued

DIVISION SIX (Continued)

B109494 Troiani (Not for Publication)
v.
Arco Marine, Inc.

The judgment is affirmed. Costs are awarded to respondent.

Coffee, J.

We concur: Stone, P.J.
 Gilbert, J.

B111984 Atighi (Not for Publication)
v.
Wood, et al.

The judgment is affirmed with costs to respondent.

Coffee, J.

We concur: Gilbert, Acting P.J.
 Yegan, J.

B112966 Grant (Not for Publication)
v.
Atighi

The judgment is affirmed with costs to respondent.

Coffee, J.

We concur: Gilbert, Acting P.J.
 Yegan, J.

December 15, 1998-Continued

DIVISION SIX (Continued)

B115544 Stuart (Not for Publication)
v.
San Luis Paints etc., et al.

The judgment (order granting nonsuit) is affirmed. Respondents are awarded costs on appeal.

Yegan, J.

We concur: Stone, P.J.
 Gilbert, J.

B118724 Connick (Not for Publication)
v.
Santa Ynez River Water District

The judgment is affirmed. Costs are awarded to respondent.

Stone, P.J.

We concur: Gilbert, J.
 Coffee, J.

[illegible]

The judgment (order denying probation petition) is reversed. Counsel for appellant shall, within 30 days of the finding of this opinion, comply with Los Angeles Superior Court rule 10.23. The parties shall bear their own costs on appeal.

Yegan, J.

We concur: Stone, P.J.
 Gilbert, J.

December 15, 1998-Continued

DIVISION SIX (Continued)

B117998 Moore (Certified for Publication)
v.
First Bank of San Luis Obispo

The judgment is affirmed. The parties shall bear their own costs on appeal.

Stone, P.J.

We concur: Gilbert, J.
 Yegan, J.

B119879 Kapp
 v.
 Kapp

(Not for Publication)

The order is affirmed. Appellant shall bear costs on appeal.

Gilbert, Acting P.J.

We concur: Yegan, J.
Coffee, J.

B115491 Joyce (Not for Publication)
v.
Simi Valley Unified Sch. Dist.

The judgment (order granting new trial) is affirmed. District is awarded costs on appeal.

Yegan, J.

We concur: Stone, P.J.
 Gilbert, J.

DIVISION SIX (Continued)

B118553 Seaboard Produce Dist. (Not for Publication)
 v.
 Post-Harvest Tech.

The judgment is affirmed. Costs to Post-Harvest.

Yegan, J.

We concur: Stone, P.J.
 Gilbert, J.